UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte IBRAHIM M. SEZAN, RICHARD QIAN, and PETER J.L. VAN
BEEK

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Appeal 2009-000771
Application 09/804,612[1]
Technology Center 2100

_____

Before JAMES D. THOMAS, THU A. DANG, and
CAROLYN D. THOMAS, *Administrative Patent Judges.*

C. THOMAS, *Administrative Patent Judge.*

DECISION ON APPEAL[2]

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[1] Application filed March 12, 2001. The real party in interest is Sharp
Laboratories of America, Inc.
[2] The two-month time period for filing an appeal or commencing a civil
action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing,
as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE"
(paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery
mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's final decision rejecting claims 2-24, which are all the claims remaining in the application, as claim 1 is cancelled. We have jurisdiction over the appeal under 35 U.S.C. § 6(b).

We AFFIRM.

The present invention relates to a system for managing audiovisual information, and in particular to a system for audiovisual information browsing, filtering, searching, archiving, and personalization. (Spec., 1:5-7.)

Claim 21 is illustrative:

21.   A method of using a system with at least one of audio, image, and a video comprising a plurality of frames comprising the steps of:

(a)   providing an electronically stored user description scheme containing user preference data for a predetermined user and at least one descriptor for identification of said predetermined user, said user preference data indicative of expected content preferences for an identified said predetermined user;

(b)   providing at least one of the following:

(i)   a program description scheme containing information related to at least one of information regarding interrelationships between a plurality of said frames, characteristics of the content of a plurality of said frames, characteristics of the content of said audio, characteristics of the content of said image, characteristics of the content of said video;

(ii)   a system description scheme containing information regarding at least one of available videos, available categories, available channels, available users, available images, capabilities of a device for providing said at least one

of said audio, said image, and said video to a user, relationship
between at least two of said video, said program description
scheme, and said user description scheme, relationship between
at least two of said audio, said program description scheme, and
said user description scheme, relationship between at least two
of said image, said program description scheme, and said user
description scheme;

(c)   an electronic device selecting without user input at
least one of a video, and image, and audio based upon an interaction
of said user description scheme with at least one of said program
description scheme or said system description scheme.

Appellants appeal the following two (2) rejections:

1. Claims 2-23 under 35 U.S.C. § 103(a) as unpatentable over
Oosterhout (US Patent No. 6,405,371 B1, June 11, 2002) and Yoshida (US
Patent No. 6,137,486, Oct. 24, 2000).

2. Claim 24 under 35 U.S.C. § 103(a) as unpatentable over Oosterhout
and Yoshida, further in view of Brown (US Patent No. 6,286,141 B1, Sept.
4, 2001).

FACTUAL FINDINGS

Yoshida

1a. Yoshida discloses that "[t]he 'Program Lock' display contains a
password, second restrict data to be set by the viewer of the TV receiver
(Rating), and 1-bit data (ON/OFF). . . . [T]he password should be known
only by the child's parents or guardians." (Col. 9, ll. 9-14.)

1b. In Yoshida, "[i]f there was no password, children would be free to
change second restrict data . . . and consequently be able to view
inappropriate video scenes." (Col. 9, ll. 14-17.)

1c. In Yoshida, "[p]arents or guardians can set second restrict data and 1-bit data by using the remote control device to input the correct password." (Col. 9, ll. 17-19.)

Oosterhout

2a. Oosterhout discloses that "the microprocessor searches in the EPG database and for each television channel, the next program that it will be broadcasting . . . . [T]he 'next' overview is combined with the marking feature." (Col. 4, ll. 42-49.)

2b. Oosterhout discloses:

> If the activated display item is an on-screen button, a step 308 is performed in which it is checked whether it is the "theme" button (42 in FIG. 4). In that case, the program executes a sub-program 309 which allows the user to input the type of television program he is currently interested in . . . . Having learned the desired type of program, the sub-program 309 searches in the EPG data the television channels that are currently transmitting such a program, and derives the relevant positions of the associated sub-images on the mosaic screen from the linking information. Then, in a step 310, the respective sub-images are perceptibly marked on the screen.

(Col. 3, l. 66 to col. 4, l. 14.)

ANALYSIS

We selected claim 21 as representative of the claims on appeal. Claims 2-20 and 22-24 were not separately argued (*see* App. Br. 6-10) in accordance with 37 C.F.R. § 41.37(c)(1)(vii). Accordingly, claims 2-20 and 22-24 stands or fall with claim 21.

Issue1: Did the Examiner err in finding that the combination of Oosterhout and Yoshida discloses user preference data indicative of *expected* content preferences for an identified predetermined user?

Appellants contend that "the Examiner has failed to show how, in the proposed modification of Oosterhout by Yoshida, the contents of Oosterhout's memory (the asserted user preference data) indicating the mosaic images to be marked as matching the desired user-selection of, e.g. 'movies' would then reflect *expected* preferences of a user." (App. Br. 10.)

The Examiner found that Yoshida inherently teaches that after [the] user enter his/her password(s), he/she can view the <u>user preference data indicative of expected content preferences for the identified of the predetermined user</u> because the display will view a list of movies or particular channels, which were preset/predetermined by the user." (Ans. 13.)

While Appellants contend that Oosterhout does not disclose any "expected content preferences" of a predetermined user, it appears that the Examiner is actually relying on Yoshida, not Oosterhout, to disclose this feature. (*see* Ans. 13.)

As a preliminary matter of claim construction, we broadly but reasonably construe the claimed "expected content" as denoting *any* content that is believed, usually for good reason, to be provided. (Claim 21).[3]

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[3] During *ex parte* prosecution, the Patent & Trademark Office (PTO) determines the scope of the claims by giving the language "the broadest reasonable construction 'in light of the specification as it would be

Here, the Examiner reasons that Yoshida inherently teaches *expected content* preferences through the use of a password to prevent children from accessing inappropriate scenes or channels (Ans. 13.) We agree. Because the parent's password in Yoshida prevents access to inappropriate content, expected content follows for a predetermined user (FF 1a-1c). As such, we find that the claimed user preference data indicative of expected content preferences *reads on* at least Yoshida's parental control features.

In addition, Oosterhout discloses that a user can select a "theme", such as movies, for the type of program he is interested in (FF 2b). We find that such a selection also leads to an expected content.

Issue 2: Did the Examiner err in finding that the combination of Yoshida and Oosterhout discloses an electronic device selecting without user input at least one of video, an image, and audio based upon an interaction of said user description scheme with at least one of said program description scheme or said system description scheme?

Appellants argue that in Oosterhout "not only is the search made in response to a user input, i.e., pressing a 'next' button (See Oosterhout at col. 4 lines 37-38) but the search is made without interaction between the 'theme data' stored in memory." (App. Br. 8.)

The Examiner found:

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interpreted by one of ordinary skill in the art.'" *Phillips v. AWH Corp.,* 415 F.3d 1303, 1316 (Fed. Cir. 2005) (en banc) (*quoting In re Am. Acad. of Sci. Tech. Ctr.,* 367 F.3d 1359, 1364 (Fed. Cir. 2004)).

> Oosterhout also teaches that the microprocessor 25 will search in the EPG [Electronic Program Guide] database and for each TV channel, the "What's On Next" program that will be broadcasting, e.g., col. 4 lines 40-49; it clearly means that the electronic device using microprocessor 25 <u>automatically searches</u> for upcoming programs without actual user input at that time.

(Ans. 10.) We agree with the Examiner.

While the user in Oosterhout may press a "next" button to see the search results, it is Oosterhout's microprocessor sub-program that *selects* the next video/image/audio to display on the "What's On Next" overview (FF 2a). Oosterhout's "What's On Next" overview is based on both the "theme" selected by the user (i.e., user preference data) and the stored EPG (i.e., program descriptions)(FF 2a-2b).

"What matters is the objective reach of the claim. If the claim extends to what is obvious, it is invalid under § 103." *KSR Int'l Co. v. Teleflex, Inc.,* 550 U.S. 398, 419 (2007). "The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *Id.* at 416.

Here, the claimed "electronically stored user description scheme" *reads on* Oosterhout's sub-program that allows the user to input the type of television program he is currently interested in. In addition, the claimed "selecting without user input . . . based upon an interaction of said user description scheme with at least one of said program description scheme" *reads on* Oosterhout's sub-program searching in the EPG data for a program meeting the inputted theme.

Thus, based on the record before us, we find that the Examiner did not err in rejecting claim 21. Accordingly, we affirm the rejections of claim 21, as well as associated dependent claims 2-20 and 22-24.

DECISION

We affirm the Examiner's § 103 rejections.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2009).

AFFIRMED

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